

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6404 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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H.C.DESAI SINCE DECEASED BY HEIR-HEMLATABEN H.C.DESAI

Versus

STATE OF GUJARAT

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Appearance:

MR PJ VYAS for Petitioners

Ms Manisha Lavkumar, AGP, for Respondent No. 1, 2

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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 19/08/1999

ORAL JUDGEMENT

Heard Mr P.J.Vyas for the petitioner and Ms Manisha Lavkumar, learned AGP, for the respondents.

2 The petitioner has challenged the order passed by the competent authority and the order passed by the Tribunal under the provisions of the Urban Land (Ceiling & Regulation) Act, 1976, declaring a part of the petitioner's hold as excess vacant land. Notifications

were also issued under section 10(1) and 10(3) and 10(5) of the Act for taking over the possession of the land and the possession was taken over on 31.7.1990. The petitioner has challenged the said notifications and orders in the present petition. In the meantime the petitioner had filed an application under Section 21(1) of the Act on 26.12.1989 in respect of land admeasuring 9207 sq. meters in Survey No.247/2 in Katar village. That application was rejected but the Urban Land Tribunal by its judgement and order dated 24-3-1995 set aside the order of the competent authority and remanded the matter for taking a fresh decision. Aggrieved by the ssaid order, the petitioner had filed Special Civil Application No.9934 of 1995. By judgement and order dated 1.2.1996 this Court directed the competent authority to decide the application under Section 21(1) within a period of one month. The competent authority issued a show-cause notice calling upon the holder to show-cause as to why the application should not be granted in view of the fact that the possession of the land was earlier taken over. The petitioner therefore filed Special Civil Application No.1516 of 1997 which was allowed by this Court on 26.2.1997 and the authorities were directed to decide applications after ignoring the notifications under Section 10(3) and 10(5) of the Act. Accordingly, the application was granted by the competent authority on 31.12.1997 sanctioning the scheme in respect of land admeasuring 7707 sq. meters.

3 In view of the above facts which are narrated in the letter dated 12.8.1999 from the competent authority and Additional Collector, ULC, to the learned AGP, which is taken on record, the learned AGP states that the possession of the land was not with the authorities on the relevant date on 30.3.1999 when the State Legislature repealed the Urban Land (Ceiling & Regulation) Act, 1976 by the Urban Land (Ceiling & Regulation) Repeal Act, 1999, as adopted by the Gujarat State Legislative Assemblby as per the resolution dated 30th March 1999, passed under Article 252(2) of the Constitution.

4 The petition is accordingly disposed of as having abated. There shall be no order as to costs.

(M S SHAH, J.)  
(mohd)